



## **PLANNING COMMISSION AGENDA SYNOPSIS**

**Wednesday, February 25, 2004**

**6:00 p.m. Regular Meeting**  
Council Chambers, Room 205, City Hall

801 North First Street  
San Jose, California

**Jay James, Chair**  
**Bob Levy, Vice-Chair**

**Xavier Campos    Bob Dhillon**  
**Christopher Blatten**

### NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 277-4576 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation and have not already identified yourself to the technician seated at the staff table, please do so now. If you did not call in advance and do now need assistance, please see the technician.

### NOTICE TO THE PUBLIC

Good evening, my name is **Bob Levy** and I am the Vice Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of *February 25, 2004*. Please remember to turn off your cell phones and pagers.

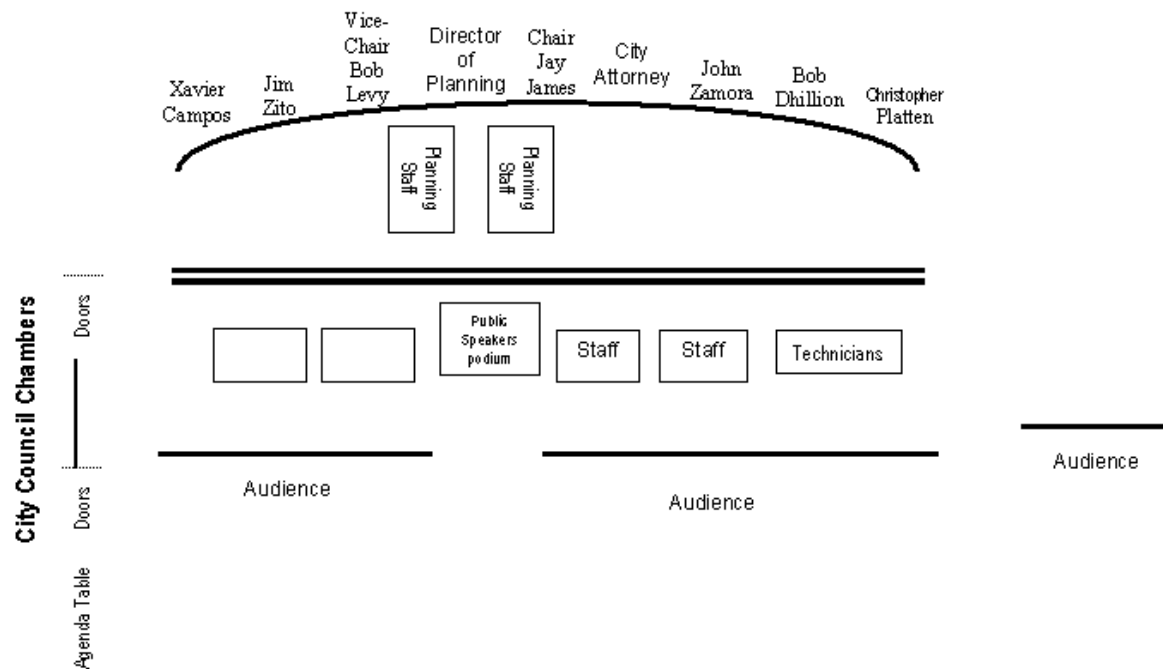
If you want to address the Commission, **fill out a speaker card (located on the table by the door or at the technician's station), and give the completed card to the technician. Please include the agenda item number for reference.**

The procedure for this hearing is as follows:

- ? After the staff report, applicants and appellants may make a 5-minute presentation.
- ? The chair will call out names on the submitted speaker cards in the order received.
- ? As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- ? After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- ? Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- ? The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

**If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at or prior to the public hearing**

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



## **AGENDA**

### **ORDER OF BUSINESS**

#### **1. ROLL CALL**

*ALL WERE PRESENT, EXCEPT JAMES.*

#### **2. DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time.

- a. PDC03-031. PLANNED DEVELOPMENT REZONING from R-M Multiple Residence District to A (PD) Planned Development Zoning District to allow up to 4 detached and 2 attached single-family residences on a 0.46 gross-acre site, located on the northeast corner of Vera Lane and Azucar Avenue (Kawadri Mazen M Trustee & et al, Owner/Developer). Council District 2. SNI: Edenvale/Great Oaks. CEQA: Mitigated Negative Declaration. Deferred from 2-11-04.

*DEFERRED TO 3-10-04.*

- b. RCP04-005. CONDITIONAL USE PERMIT to allow live concerts on a vacant at-grade parking lot (up to 22 events per year) between the hours of 5:00p.m. and 10:30p.m. on Thursday through Sunday, on a 0.28-acre site in the CG Commercial General Zoning District, located at 401 South First Street and 402 South Market Street. (Bertram Burns, Owner/ Jacek Rosicki, Applicant). Council District: 3. CEQA: Resolution No. 68839.

*DEFERRED TO 3-10-04.*

- c. RCP04-006. CONDITIONAL USE PERMIT to allow 24 hour operations, daily, at an existing eating and drinking establishment with live entertainment (Palermo) on a 0.35-acre site in the CG Commercial General Zoning District, located at 394 South Second Street. (Diane and Renato Cusimano, Owner/Applicant). Council District: 3. CEQA: Resolution No. 68839.

- e. The projects being considered are located on north side of Forest Avenue approximately 120 feet easterly of Winchester Boulevard (2467 Forest Avenue), in the CG General Commercial Zoning District (Paula Shulman Trustee & et al, Owner). Council District 6. SNI: None. CEQA: Exempt. Deferred from 2-11-04.
  - 1. CP03-073. CONDITIONAL USE PERMIT to allow off-sale of alcoholic beverages at a new mini-mart and associated tenant improvements on a 0.36 gross acre site.
  - 2. ABC04-001. LIQUOR LICENSE EXCEPTION permit to allow the off-sale of alcoholic beverages at a retail store on a 0.36 gross-acre site.

*DEFERRED TO 3-10-04.*

### **3. CONSENT CALENDAR**

#### **NOTICE TO THE PUBLIC**

**The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff or the public to have an item removed from the consent calendar and considered separately. If anyone in the audience wishes to speak on one of these items, please come to the podium at this time.**

- a. CPA03-022-01. CONDITIONAL USE PERMIT AMENDMENT to allow modifications to a previously approved wireless communications facility and the addition of a 94 hp diesel back-up generator and associated equipment shelter of 480 square feet on a 10.5 gross-acre site in the R-1-8 Single-Family Residence Zoning District, located at/on southwest terminus of McLaughlin Avenue and Carnelian Drive (1523 McLaughlin Avenue) (San Jose Christian Comm Church, Owner; Verizon Wireless Jim Graham, Developer). Council District 7. SNI: Tully/Senter. CEQA: Exempt.
- b. CPA99-016-01. CONDITIONAL USE PERMIT AMENDMENT to allow the addition of a 2,809 square-foot canopy over a deck at an existing church on a 1.23 gross acre site in the R-M Multiple Residence Zoning District, located at/on north side of Pedro Street approximately 130 feet westerly of Lincoln Avenue (Croatian Catholic Church, Owner). Council District 6. SNI: None. CEQA: Exempt.

*APPROVED (6-0-1; JAMES ABSENT).*

*APPROVED (6-0-1; JAMES ABSENT).*

2. ABC03-011. LIQUOR LICENSE EXCEPTION PERMIT to allow the off-sale of alcoholic beverages at a liquor store previously located within the same retail shopping center.

*APPROVED (6-0-1; JAMES ABSENT). PULLED FROM CONSENT BY COMMISSIONER CAMPOS, WHO INDICATED A CONCERN WITH APPROVAL OF A LIQUOR STORE IN THIS LOWER INCOME NEIGHBORHOOD WHERE SITE MAINTENANCE HAS BEEN AN ISSUE. COMMISSIONER DHILLON NOTED THE LIQUOR STORE HAS BEEN LONG TERM TENANT IN SHOPPING CENTER AND IS MOVING TO FACILITATE UPGRADE OF CENTER AND ACCOMMODATE NEW TENANT, AND SHOULD NOT BE PENALIZED. APPLICANT CLARIFIED STORE ON SITE SINCE 1965, AND THAT EFFORTS TO REVITALIZE CENTER HAD BEEN UNDERWAY FOR 8 YEARS, WAITING FOR OPPORTUNITY AND FOR RDA FUNDING TO BE AVAILABLE. COMMISSIONER ZAMORA CONCURRED WITH COMMISSIONER CAMPOS THAT ALCOHOL AND THE EFFECTS ON YOUTH IS SERIOUS ISSUE, BUT THAT THIS OWNER HAS BEEN ON SITE FOR YEARS, AND OTHER LIQUOR STORES HAVE SUBSEQUENTLY DEVELOPED NEARBY. THE APPLICANT AND STAFF CLARIFIED THAT EFFORTS TO IMPROVE THE CENTER HAD BEEN DELAYED FOR COMPLETION OF ON-SITE CHURCH RENOVATIONS, AND FOR COORDINATION BY FIVE INVOLVED PROPERTY OWNERS. COMMISSIONER CAMPOS MADE THE MOTION FOR DENIAL, WHICH FAILED FOR LACK OF A SECOND. ON APPROVAL, COMMISSIONERS URGED MANAGER TO OPERATE STORE WITH CAUTION AND TO BE AWARE OF YOUTH GANG ISSUES.*

- d. RCP04-001. CONDITIONAL USE PERMIT at an existing drinking and entertainment establishment (Waves), to remove a condition of approval that prohibits the business from collecting a cover charge for entrance to the premises, at an existing commercial building on a 0.05-acre site in the CG Commercial General Zoning District, located at 65 Post Street. (Joel Wyrick, Owner/Applicant). Council District: 3. CEQA: Resolution No. 68839.

*APPROVED (6-0-1; JAMES ABSENT).*

- e. PDC03-055. PLANNED DEVELOPMENT REZONING from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to six residential units (four single-family detached courthome units and two apartments) on a 0.4-acre site located on the east side of Cypress Avenue approximately 70 feet northerly of Adra Avenue (432 South Cypress Avenue). E & H Third Family Partnership, owner/developer. Council District: 1. SNL: None. CEQA:

Avenue) (Ku & Sophia Hammond, Owners). Council District 1. SNI: Blackford. CEQA: Exempt.

*RECOMMEND APPROVAL (6-0-1; JAMES ABSENT). PULLED FROM CONSENT BY RESIDENTS OF ADJACENT PROJECT WITH CONCERNS REGARDING PROJECT IMPACTS TO PRIVACY, PARKING, NOISE AND SETBACKS. STAFF AND THE APPLICANT CLARIFIED SIGNIFICANT TREES TO REMAIN, AND NOTED ORDINANCE-SIZED TREE TO BE REMOVED NOT AT FRONT OF PROPERTY. STAFF CLARIFIED PROJECT MEETS DESIGN GUIDELINES, AND PARKING STANDARDS, AND THAT REAR SETBACK FOR 2<sup>ND</sup> STORY WOULD BE 10 FEET, WITH LOWER STORY AT 5 FEET. COMMISSIONER ZITO NOTED ITALIAN CYPRESS COULD BE A WORKABLE TREE SPECIES TO BE CONSIDERED AT THE PD PERMIT STAGE, AND COMMENTED THAT PROPOSED PROJECT OF SAME TYPE AND DENSITY AS ADJACENT PROJECT AND MEETS CITY GUIDELINES. COMMISSIONERS ZITO AND LEVY RECOMMENDED THE RESIDENTS OF THE ADJACENT PROJECT STAY INVOLVED AT THE PD PERMIT STAGE TO MAXIMIZE NEW BUILDING SETBACKS AND TO DESIGN APPROPRIATE PLANTINGS TO PROVIDE BUFFER BETWEEN TWO DEVELOPMENTS.*

- g. PDC02-057. PLANNED DEVELOPMENT REZONING from CN Neighborhood Commercial District to A(PD) Planned Development District to allow 10 single-family attached residences on a 0.47 gross-acre site located at/on the northwest corner of Almaden Avenue and West Virginia Street (777 Almaden Avenue) (David D & Cathy C Tsang, Lucia Wu, Owners). Council District 3. SNI: Washington. CEQA: Mitigated Negative Declaration.

*RECOMMEND APPROVAL (6-0-1; JAMES ABSENT).*

The following items are considered individually.

#### **4. PUBLIC HEARINGS**

- a. The item being considered is located between the Union Pacific Railroad tracks, Market Street, Julian Street, and Highway 87 on a 9-acre site (Brandenburg Staedler & Moore, Owners; Redevelopment Agency, Applicant). Continued from 2-9-04.

GP03-03-01a/GPT03-03-01a/GP03-03-01b. FINAL ENVIRONMENTAL IMPACT REPORT for the Mixed use Project/North San Pedro Housing sites General Plan amendment to change the Land Use/Transportation Diagram from General Commercial to General Commercial/Industrial/Commercial and Residential General Plan

*CLARIFICATION REGARDING FUTURE PARK DEVELOPMENT AND HOW PARK DEFICIT WOULD BE MITIGATED. STAFF AND THE ENVIRONMENTAL CONSULTANT CLARIFIED THAT RESOLUTION OF PARKLAND DEVELOPMENT OCCURS IN RESPONSE TO ACTUAL DEVELOPMENT PROPOSALS.*

- b. PDC03-068. PLANNED DEVELOPMENT REZONING from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 107 single-family detached residences on a 13.7-gross acre site, located on the southwest corner of Oakland Road and Rock Avenue(1803 Oakland Road) (Orchard Property Llc, Owner; Summerhill Homes, Developer). CEQA: Resolution 04-017. SNI: None. Council District 4. Continued from 2-9-04.

*RECOMMEND APPROVAL OF APPLICANT'S PROPOSAL (4-2-1; ZITO, LEVY OPPOSED; JAMES ABSENT). COMMISSION DISCUSSION FOCUSED ON PROVISION OF PARKLAND FOR PROPOSED SINGLE-FAMILY DETACHED DEVELOPMENT. THE APPLICANT REITERATED INTEREST IN WORKING TO IMPROVE ORCHARD SCHOOL SITE FOR NEIGHBORHOOD PARK, AND THE PARKS DEPARTMENT STAFF CLARIFIED PARKLAND DEDICATION ORDINANCE WOULD ALLOW FEES TO BE USED. COMMISSIONERS LEVY AND ZITO EXPRESSED CONCERN THAT SCHOOL SITE PARK COULD HAVE RESTRICTED PUBLIC ACCESS DURING SCHOOL HOURS, THAT OPPORTUNITY FOR PARKLAND DEDICATION SHOULD NOT BE MISSED, THAT AN ON-SITE PARK LOCATION WOULD BETTER FACILITATE PARK EXPANSION FOR SUBSEQUENT RESIDENTIAL DEVELOPMENT AND THAT A PARK ON THE SCHOOL SITE WOULD BE SEPARATED FROM THE PROJECT BY THE FOUR-LANE CHARCOT EXTENSION. COMMISSIONERS ZAMORA, CAMPOS AND DHILLON EXPRESSED SUPPORT FOR THE CITY WORKING TOGETHER WITH SCHOOL DISTRICTS FOR PARKS, AND CONCERN THAT AN ON SITE PARK LOCATION WOULD REDUCE THE NUMBER OF UNITS POSSIBLE ON THE SITE. PLANNING STAFF CLARIFIED THAT A VARIETY OF HOUSING TYPES THAT COULD YIELD ADDITIONAL UNITS WOULD CONFORM TO THE MEDIUM DENSITY RESIDENTIAL (8-16 DU/AC) GENERAL PLAN DESIGNATION RECOMMENDED FOR THE SITE, AND THAT SMALL LOT SINGLE-FAMILY WAS A MARKETING DECISION BY THE APPLICANT.*

- c. CPA01-057-01. CONDITIONAL USE PERMIT AMENDMENT to remove a condition of approval from a previously approved Conditional Use Permit for a proposed gasoline service station/car wash facility. The subject condition of approval would require the dedication of an easement for public access over a part of the property that currently extends across a portion of Saratoga Avenue. The project



*LANGUAGE FOR THE SUBJECT CONDITION. STAFF THEREFORE  
RECOMMEND TO APPROVAL AT THE HEARING.*

**5. PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
  - 1. Responding to statements made or questions posed by members of the public; or
  - 2. Requesting staff to report back on a matter at a subsequent meeting; or
  - 3. Directing staff to place the item on a future agenda.

*NO COMMENTS.*

**6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER  
AGENCIES**

- a. Review and comment of draft Downtown Design Guidelines. Deferred from 2-11-04.

*PLANNING STAFF REVIEWED GUIDELINES AND EXPLAINED FUTURE  
APPROVAL PROCESS.*

**7. GOOD AND WELFARE**

- a. Report from City Council

*NO REPORT GIVEN.*

- b. Commissioners' reports from Committees:

? Norman Y. Mineta San Jose International Airport Curfew Monitoring Committee  
(Dhillon and James).

*NO REPORT GIVEN.*

? Coyote Valley Specific Plan (Platten)

*NO REPORT GIVEN. NEXT MEETING 3-1-04.*

- c. Review of synopsis.

**8. ADJOURNMENT**

## 2004 PLANNING COMMISSION MEETING SCHEDULE

March 10	6:00 p.m.	Regular Meeting	Council Chambers
March 24	6:00 p.m.	Regular Meeting	Council Chambers
April 14	4:30 p.m.	<b>Study Session</b>	Room 400
		Review of the General Plan	
April 14	6:00 p.m.	Regular Meeting	Council Chambers
April 26	6:00 p.m.	General Plan Hearing	Council Chambers
April 28	6:00 p.m.	Regular Meeting	Council Chambers
May 12	6:00 p.m.	Regular Meeting	Council Chambers
May 26	6:00 p.m.	Regular Meeting	Council Chambers
June 9	6:00 p.m.	Regular Meeting	Council Chambers
June 23	6:00 p.m.	Regular Meeting	Council Chambers
July 14	6:00 p.m.	Regular Meeting	Council Chambers
July 26	6:00 p.m.	General Plan Hearing	Council Chambers
July 28	6:00 p.m.	Regular Meeting	Council Chambers
August 11	6:00 p.m.	Regular Meeting	Council Chambers
August 25	6:00 p.m.	Regular Meeting	Council Chambers
September 8	6:00 p.m.	Regular Meeting	Council Chambers
September 22	6:00 p.m.	Regular Meeting	Council Chambers
October 13	6:00 p.m.	Regular Meeting	Council Chambers
October 27	6:00 p.m.	Regular Meeting	Council Chambers
November 1	6:00 p.m.	General Plan Hearing	Council Chambers
November 10	6:00 p.m.	Regular Meeting	Council Chambers
November 17	6:00 p.m.	Regular Meeting	Council Chambers
December 8	6:00 p.m.	Regular Meeting	Council Chambers

STAFF RECOMMENDATIONS for PLANNING COMMISSION MEETING:  
February 25, 2004

1. Roll Call
2. Deferrals
  - a. 3-10-04
  - b. 3-10-04
  - c. 3-10-04
  - d. 3-10-04
  - e. 3-10-04
3. Consent Calendar
  - a. +
  - b. +
  - c. +
  - d. +
  - e. +
  - f. +
  - g. +
4. Public Hearings
  - a. Certify EIR
  - b. Conditional +
  - c. -